



Alberta Darling

Wisconsin State Senator

Member, Joint Committee on Finance

Senator Darling Testimony on AB 70
Assembly Committee on Criminal Justice
March 5, 2009

Thank you Chairman Turner and committee members for hearing this important legislation.

AB 70 (and companion bill SB 44) would require handgun background checks to access mental health information that would prohibit a handgun purchase under current federal law.

This bill is identical to 2007 Senate Bill 216 and 2007 Assembly Bill 424 as amended by amendments 1 and 2 to those bills. As amended, in the last session this legislation passed the Assembly on a voice vote, and was recommended for passage by the Senate Committee on Judiciary on a 5-0 vote.

This bill requires the Wisconsin Circuit Court Access Consolidated Court Automation Programs (CCAP) to provide the necessary information to the Wisconsin Department of Justice (DOJ), which in turn provides the information to the National Instant Criminal Background Check System (NICS).

This provision strengthens background checks for handgun purchases by closing a loophole that has existed for years under our previous Attorneys General. A federal law exists that prohibits people with an involuntary mental health commitment from possessing firearms, yet Wisconsin does not make that information available when background checks for handgun purchases are performed.

This legislation was prompted largely by the 2007 shootings on the campus of Virginia Tech. The shooter would likely have been prohibited under federal law from purchasing firearms, but Virginia law did not accurately address the issue. At that time, only 23 states submitted any information to the NICS system. That number has since increased, yet Wisconsin is still not one of them. We must ensure that prohibited purchasers can't buy a handgun in Wisconsin because of a loophole that should have been fixed years ago.

- This bill will keep people who are prohibited for mental health reasons under state and federal law from buying handguns.
- This bill makes information required under current federal law available on a NICS handgun background check.
- This bill does not create any new prohibitions for gun purchases; rather, it simply makes information available to DOJ and NICS that is required under law.
- Amendments to the 2007 legislation – incorporated in AB 70 – address privacy concerns brought forth by advocates for individuals with mental illness.

Capitol Office:

P.O. Box 7882
Madison, Wisconsin 53707-7882
Phone: 608-266-5830
Fax: 608-267-0588

Toll-free: 1-800-863-1113

Email: sen.darling@legis.wisconsin.gov

Web page: www.legis.wisconsin.gov/senate/sen08/news/

District Office:

N88 W16621 Appleton Avenue, Suite 200
Menomonee Falls, Wisconsin 53051
Phone: 262-250-9440
Fax: 262-250-8510

On January 8, 2008, President Bush signed into law the NICS Improvement Act (HR 2640), a law that provides \$250 million annually to states that implement laws such as AB 70. This bipartisan bill, supported by the NRA, guides participating states how to provide relevant and accurate records to the FBI. The new law takes a carrot-and-stick approach to get states to report people who are ineligible to buy guns. It authorized up to \$250 million a year for five years to states to help pay the cost of providing the records, and threatens to withhold federal anti-crime funds if the states fail to act.

After the Virginia Tech massacre, the US Department of Justice wrote an open letter to every state's Attorney General on May 9, 2007 identifying what steps should be taken to ensure states' compliance with federal law. The letter from the US DOJ is clear in its directive to the states. "ATF and our FBI partners who operate the NICS system are encouraging State authorities to take the necessary actions to ensure that all disqualifying information is provided to prevent the purchase of firearms by those prohibited from possessing firearms under Federal law."

The 2007 legislation was supported by the Wisconsin Chiefs of Police Association, the National Rifle Association, the Milwaukee Police Association, and the University of Wisconsin Police Chief.

We worked closely last session with the Department of Justice to alleviate several concerns posed to us by Mental Health America of Wisconsin:

1. Minimal information is transmitted to NICS from DOJ, and none that identifies a prohibited purchaser as an adjudicated mental defective. This was a concern of the MHA and the bill, as written, ensures this.
2. Information about those adjudicated as a mental defective is not used for anything other than for background check purposes under this law. No other person can access or transmit this information for any other reason. Our bill, as written, ensures this.
3. We make clear that DOJ shall convey information to NICS regarding the cancellation of any such prohibition order against a person. This allows a person's name to be removed once they no longer present a danger. Federal law already guarantees this process will happen, but writing it into statute will doubly ensure it.

Another frequently asked question refers to the privacy issue of the records being released. It is true that current law prevents the Department of Justice from sharing mental health information because such records are confidential under the Mental Health Act. There are exceptions to this Act, and our bill creates another exception to allow the courts to communicate that information to DOJ.

We clearly have the need for this bill, and now we have the funding from the federal government. It's time for Wisconsin to get this done. Thank you for your time today.

###

**SCOTT GELZER & PATRICIA WYZBINSKI
1685 NORTH MARSHALL STREET
MILWAUKEE WI 53202**

March 3, 2009

Representative Jon Richards
WI House of Representatives
State Capitol P.O. Box 8953
Madison, WI 53708

Dear Jon:

We are writing in support of your efforts, along with Representative Scott Gunderson and others, to pass Assembly Bill 70. We write as eleven-year residents of Milwaukee, as people who work to improve the community, but also as parents. If this letter is in any way helpful to explain the importance of this legislation, please use it.

Early in the morning on April 16, 2008 our son chose to end his life. We will never stop asking questions of ourselves. Forever 24, Brandon S. Wyzbinski Gelzer was a bright, outgoing carpenter and entrepreneur who loved music, travel, and family. Over 150 people celebrated his life on what would have been his 25th birthday, May 9, 2008.

In October 2007 after a series of incidents, we made one of the most difficult decisions of our lives. We called a mobile crisis team to our home and after we were unable to convince Brandon to voluntarily seek hospitalization, he was committed against his will. After a court verified the initial decision, he spent a week at Aurora Psychiatric Hospital. He was released and pursued a variety of treatments on an outpatient basis.

After a brief period of relative stability, his mental health deteriorated in early 2008. To our astonishment, he was able to easily purchase several handguns from a Milwaukee gun retailer.

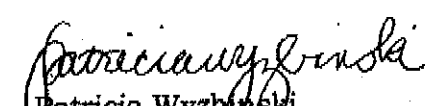
We write to you and the other standard bearers for AB70 (and SB44) and ask that you take action to help close the loophole that allowed a person such as our son, a danger to himself, to so easily purchase a firearm. We understand that reasonable people argue about firearm registration, regulation, and the Second Amendment. In contrast to this larger debate, AB70 is common-sense legislation that will restrict a group of people, formally judged to be a danger to themselves or others, in their ability to legally purchase a lethal means of ending life. It will also prevent sales to out-of-state purchasers who would not be flagged by an in-state background check.

Important matters involving Pat's mother's estate in MI prevent our attendance at the March 5th hearing. We will attend any future event, briefing, discussion or other forum that you, Representative Gunderson, Representative Turner or Senate sponsors request.

Perhaps, through your actions and those of your colleagues, a small bit of good can come from our son's death.

Sincerely,


Scott Gelzer


Patricia Wyzbinski

George, Lorna

From: cass7dog-politics@yahoo.com
Sent: Wednesday, March 04, 2009 9:40 PM
To: Rep.Turner
Subject: Support AB70

Dear Representative Turner -

I understand that you will be chairing a public hearing tomorrow on AB70. As I will not be able to attend the meeting, I want to express my strong support for this bill.

Colleagues of mine here in Milwaukee, Scott Gelzer and Pat Wzybinski, lost their son Brandon last year to a tragic suicide. Despite his history of involuntary commitment for mental health problems, Brandon was able to legally purchase a handgun and use it to end his life.

It is crucial to close the loophole that allowed this tragedy to occur. Please support AB70, expanding gun purchase background checks to identify people who are ineligible to purchase firearms under state and federal laws.

Thank you for your attention to this important issue,

Lisa Larson
Shorewood, WI

3/5/2009

George, Lorna

From: Reed D. Gelzer [r.gelzer@snet.net]
Sent: Wednesday, March 04, 2009 8:07 AM
To: Rep. Turner
Subject: House Committee on Criminal Justice hearing on AB70, SB44 on handgun background check standardization

Dear Representative Turner,

I am sorry that I cannot be there tomorrow for the hearings you'll lead since, in just a few short weeks it will be a year since my nephew, a Wisconsin resident, shot himself with a gun he should not have been able to buy. Many things over many years led to a moment when despair led him to make an irrevocable choice. What if, as in most states, he could not have had a handgun at that moment of despair? Might some revocable decision have been made instead, with loved ones close by who could have intervened given even just a few more minutes? There is no way to tell.

What is most worrisome is that he had been involuntarily committed to a Wisconsin psychiatric hospital just months before he bought that gun. What of those who are today similarly deemed incapable of making even the most basic decisions for themselves, but instead of being self-destructive are instead intent on killing someone else? That same person in Wisconsin could get a gun and kill one, two, or many.

We will always bear the pain of wondering "what if" for Brandon. I am hopeful that perhaps no future family will have to wonder "what if" Wisconsin law didn't permit mentally disturbed to buy a gun. It is a horror for us with my nephew, my brother's son's suicide. Moreso if the buyer was one whose despair flamed outward.

On behalf of Brandon's parents, Scott Gelzer and Patricia Wyzbinski of Milwaukee, please assure a fair and vigorous hearing, which I believe will lead to passage of this legislation aligning Wisconsin with the vast majority of states.

Thank you,

RDGelzer

Reed D. Gelzer, MD, MPH, CHCC

Data Quality and EHR Integrity Consulting

Advocates for Documentation Integrity and Compliance

Wallingford, CT and Boston, MA

203-506-5361